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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 IN RE EHEALTH STOCKHOLDER
13 DERIVATIVE LITIGATION

Case No. 4:20-CV-04477-JST

14 **STIPULATION AND ~~PROPOSED~~**
15 **ORDER VOLUNTARILY DISMISSING**
ACTION PURSUANT TO FEDERAL
RULES OF CIVIL PROCEDURE 23.1
AND 41

1 WHEREAS, on November 29, 2021, the Court consolidated the related actions filed by
2 plaintiffs Yacob Chernet and Dharmender Badwal (together, “Plaintiffs”) against defendants Scott
3 N. Flanders, Derek N. Yung, David K. Francis, Andrea C. Brimmer, Beth A. Brooke, Michael D.
4 Goldberg, Randall S. Livingston, Jack L. Oliver, III, and Dale B. Wolf (collectively, the
5 “Individual Defendants”) on behalf of eHealth, Inc. (“eHealth” or the “Company,” and together
6 with the Individual Defendants, “Defendants”) (ECF No. 42);

7 WHEREAS, on December 9, 2022, Plaintiffs filed a Verified Consolidated Stockholder
8 Derivative Complaint (ECF No. 48);

9 WHEREAS, on January 3, 2023, the Court granted the Parties’ stipulation to stay the
10 above-captioned action (the “Action”) pending the resolution of the related securities class action,
11 captioned *In re eHealth, Inc. Securities Litigation*, Case No. 4:20-cv-2395-JST (the “Securities
12 Class Action”);

13 WHEREAS, on November 29, 2023, the Court in the Securities Class Action entered final
14 judgment in favor of the defendants in that action;

15 WHEREAS, on December 15, 2023, the Court ordered the Parties to file a Case
16 Management Statement by January 30, 2024 and to appear at a Case Management Conference on
17 February 6, 2024 at 2:00 p.m. (ECF No. 54);

18 WHEREAS, after due consideration of the dispositive decisions in the Securities Class
19 Action, Plaintiffs wish to voluntarily dismiss the Action pursuant to Rules 23.1(c) and 41(a) of the
20 Federal Rules of Civil Procedure, without prejudice as to Plaintiffs, eHealth, and/or any other
21 eHealth shareholder;

22 WHEREAS, the Parties agree that the dismissal is not, and shall not be deemed to be, an
23 adjudication of the Action on the merits, and that each Party shall bear its own fees and costs
24 incurred in connection with the Action; and

25 WHEREAS, the Parties agree and respectfully submit that notice to shareholders of this
26 dismissal is unnecessary here because: (i) the dismissal is without prejudice to the ability of any
27 eHealth shareholder, or eHealth itself, to pursue the claims; (ii) there has been no settlement or
28 compromise of the Action; (iii) there has been no collusion among the Parties; and (iv) neither

1 Plaintiffs nor their counsel have received or will receive directly or indirectly any consideration
2 from Defendants for the dismissal.

3 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the Parties,
4 through their undersigned counsel, subject to the approval of the Court, as follows:

5 1. This Action shall be dismissed without prejudice as to Plaintiffs, eHealth, and/or
6 any other eHealth shareholder.

7 2. The Parties shall bear their own fees and costs in connection with the Action.

8 3. The Case Management Conference set for February 6, 2024 and the associated
9 deadline to file a Case Management Statement are vacated.

10 IT IS SO STIPULATED.

1 DATED: January 9, 2024

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By: /s/ Pavithra Rajesh

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1 DATED: January 9, 2024

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Attorneys for Defendants Scott N. Flanders, Derek N. Yung, Andrea C. Brimmer, Beth A. Brooke, Michael D. Goldberg, Randall S. Livingston, Jack L. Oliver, III, Dale B. Wolf, and Nominal Defendant eHealth, Inc.

9 DATED: January 9, 2024

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Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this stipulation.

17 Dated: January 9, 2024

/s/ Pavithra Rajesh

Pavithra Rajesh

* * *

20 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22 DATED: January 10, 2024


THE HONORABLE JON S. TIGAR
UNITED STATES DISTRICT JUDGE